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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/604,315	06/27/2000	Kazuyuki Miya	JEL-31205	5131

7590 02/12/2004

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EXAMINER

NGUYEN, DUNG X

ART UNIT

PAPER NUMBER

2631

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/604,315	MIYA ET AL.	
	Examiner Dung X Nguyen	Art Unit 2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 5 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 - 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 3 - 5 is/are allowed.
- 6) Claim(s) 1, 2, 6, and 7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 November 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____ . |

Response to Arguments

1. Applicant's arguments filed on 5 November 2003 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2, 6, and 7 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Komatsu (US patent # 6,094,449) submitted by applicant, further in view of Aoyama (US patent # 6,282,229 B1).

Regarding claim 1, Komatsu discloses (figure 2 and abstract):

- Integrators 5 in units 100s for measuring respective received signal (should be respective timing also) power (column 7, lines 30 – 34, and one can name each of transmitting channels as common control channel or physical dedicated channel);
- Path Selection Units 8s provide means for selecting a path candidate and correlators 9s for performing correlation between received signals (column 7, lines 51 – 59);
- Unit 11 for providing means of selecting a path from a result of the correlation calculation 9 to determine a reception timing of the path (abstract, lines 19 – 24).

Komatsu differs from the instant claimed invention that it does not provide a delay profile generation means for generating respective delay profiles based on respective received signal. However, Aoyama discloses (figure 1) delay circuits 21 - 2N for generating delay profiles based on respective received signal. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Komatsu and Aoyama to provide a delay profile generation means for generating respective delay profiles based on respective received signal for obtaining the timing form the delay profile (abstract of Aoyama).

Regarding claim 2, the limitations are analyzed in the same manner set forth as claim 1.

Regarding claim 6, the limitations are analyzed in the same manner set forth as claim 1.

Regarding claim 7, the limitations are analyzed in the same manner set forth as claim 1.

Allowable Subject Matter

4. **Claims 3 – 5 are allowed.** The following is a statement of reasons for the indication of allowable subject matter:

Regarding to the claimed invention, the prior art of record fails to show or render obvious of a communication terminal apparatus and radio reception method capable of performing path selection accurately with high reliability even in the case where a base station performs directional controlled transmission. In forward transmission directional control is applied using a smart antenna and adaptive array antenna to provide preliminary selection means for selecting a path candidate at a reception timing of one channel, a communication terminal performs correlation calculation between a delay profile of a dedicated physical channel and a delay profile of a common control channel, a switch that switches between the searching paths, and thereby performs path selection accurately with high reliability to determine a timing reception of path.

Miura and Tran provide a communication terminal with path selection, but in different ways.

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CONTACT INFORMATION

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung X. Nguyen whose telephone number is (703) 305-4892. The examiner can normally be reached on Monday through Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Ghayour Mohammad H. can be reached on (703) 306-3034. The fax phone numbers for this group is (703) 308-6743.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.

DXN

December 6, 2003


MOHAMMAD H. GHAYOUR
PRIMARY EXAMINER